



**INFORMATION**  
**regarding**  
**Contraction of Marriage in Germany**  
(April 2016)

**GENERAL**

Compulsory civil marriage: In Germany, marriage may only be contracted before a registrar. The registrar is a person appointed by the competent authority in accordance with Land legislation. If neither of the parties is German, the marriage may also be contracted before a person duly authorized by the government of the State of which one of the parties is a national. The laws of the authorizing State determine the form of marriage. A church wedding prior to a civil marriage before a registrar is not admissible. Anyone who performs a church wedding prior to a civil marriage before a registrar is normally committing an irregularity.

Form of marriage: Marriage is deemed to have been contracted when the parties declare together before the registrar that they wish to enter into marriage with each other. Such declarations may not be made subject to any condition or time limit. The marriage may be solemnized in the presence of up to two witnesses if the parties so wish. The registrar may not refuse to solemnize the marriage if the conditions for contraction of marriage are met. He must refuse to solemnize the marriage if it is obvious that the marriage would be voidable. For example, one ground for annulment would be if both parties had agreed before contracting marriage not to establish a matrimonial consortium (sham marriage).

Choice of marital surname if both parties are German: The surname is to be chosen by the two parties by a joint declaration before the registrar. The parties may choose the man's surname or the woman's maiden name. The party whose surname is not used as the joint marital surname may prefix or add to the new surname his or her original surname or the surname used at the time the declaration is made. If no choice is made at the time of the marriage, each party retains the surname used at the time of the marriage. A declaration on the choice of marital surname may also be made after the marriage has taken place; in this case it must be certified by a notary public.

Choice of marital surname if at least one party is a foreigner: The parties may choose the marital surname by a joint declaration before the registrar at the time of the marriage or sometime thereafter:

1. in accordance with the national law of one of the parties; if a party possesses the nationality of a foreign country in addition to German nationality, the law of that country may be chosen.
2. in accordance with German law if
  - one of the parties is German or if German law is applicable to him or her (stateless persons, homeless aliens, foreign refugees or persons entitled to asylum having their ordinary place of residence in Germany or, in the absence of such residence, staying in Germany)
  - neither party is German, but one of them has his or her ordinary place of residence in Germany,
3. in accordance with the national laws of the two parties if the choice of marital surname is in accordance with such laws.

If no choice is made as to which law is to apply, the surnames used in the marriage shall be determined by the national law of each party, the German party thus retaining the surname he or she had before the marriage.

## **REGISTRATION OF INTENDED MARRIAGE**

Purpose of registration: The parties must register their intention to marry with the registrar. The information and proofs to be provided serve to establish whether the parties have the capacity to marry and whether any impediments exist. If one of the parties is dangerously ill, the marriage may be solemnized before this has been established if it can be shown, by a medical certificate or in some other way, that the marriage cannot be postponed.

Competent registrar: The intended marriage must be registered with the registrar in whose district one of the parties has his or her domicile or ordinary residence. Where several registrars are competent, the parties are free to make their own choice. If neither party has his or her domicile or ordinary residence in Germany, competence for the marriage shall lie with the registrar for District I in Berlin or one of the central registrar's offices in Munich, Baden-Baden or Hamburg. In this case, any other registrar may record registration; he shall then transmit this record along with all pertinent documents to the competent registrar.

Form of registration: The parties should register their intended marriage in person with the registrar. If one party is unable to attend, he or she must submit a written declaration agreeing to the registration of the intended marriage by the other party (declaration of consent). The declaration of consent must contain all statements by the absent party required for registration. Printed forms for declarations of consent can be obtained from German registrars. If, on good grounds, neither party is able to appear before the registrar, they may register their intended marriage in writing or through a representative. In either case all statements required of each party must be submitted. The written notice of registration must be signed by both parties. A representative must present authorizations from both parties. The registrar records the registration of intended marriage in writing, giving details of all questions relating to the parties' capacity to marry and to any impediments. If, having examined the information submitted, the registrar decides that the conditions for marriage are met, he informs the parties accordingly and fixes a date for the solemnization of the marriage. If the marriage does not take place within six months of the registrar informing the parties, the intended marriage must be registered anew.

Authorization of another registrar to solemnize the marriage: The marriage may also be contracted before a registrar other than the one who registered the intended marriage. If neither party has his or her domicile or ordinary residence in the district of this registrar, an authorization by the registrar who registered the intended marriage is required, as well as confirmation that registration has taken place. Only registrars in Germany and consular officers of a mission of the Federal Republic of Germany abroad who are empowered to solemnize and register marriages may be authorized.

## **DOCUMENTS REQUIRED**

Documents always required: (a) An identification document with photograph (e.g. passport, identity card) if the parties are not known to the registrar personally; (b) a residence permit issued by the appropriate registration authority, indicating personal status, domicile and nationality, if the parties are registered in Germany; (c) a certificate copy of or extract from the parties' parents' family books<sup>1</sup>; if they have not been entered in a family book or were adopted as children, their certificate of affinity (Abstammungsurkunde). ((<sup>1</sup> „Familienbuch“: contains a record of births, marriages and deaths in the family))

Additional documents required of Germans of limited legal capacity: If the under-age party is not under 16 and his or her future spouse not under 18 years of age: a copy of the decision of the family court granting the under-age party exemption from the requirement of marriageable age.

Additional documents required of parties previously married: Proof of the dissolution of any previous marriage, e.g. (a) death certificate of any former spouse, (b) extract from or certified copy of the family book containing an entry in column 8 (or certified copy of entries in respect of previous marriages and of their dissolution or annulment), (c) copies of German court decisions, having been certified as having the force of law, concerning divorces, dissolutions, annulments or the non-existence of previous marriages, or (d) foreign court decisions on marriages, where the judicial authorities of the Land concerned have established that the prerequisites for recognition have been fulfilled, or where such establishment is not required.

Additional documents required of parties who are not German: (a) Proof of nationality (passport or certificate of nationality issued by the competent authority of the native country), (b) certificate of no impediment issued by the national authority of the native country (details below); (c) exemption from the requirement of a certificate of no impediment granted by the competent president of the Higher Regional Court (Oberlandesgericht) if the authorities in the country concerned do not issue certificates of no impediment (details below).

Other documents/unobtainable documents: (a) Documentary proof (usually a birth certificate) of the birth of any child of the two parties whose birth was not registered in Germany; (b) If the parties are unable to procure the necessary documents or are able to do so only with considerable difficulty or at unreasonable cost, the registrar may accept church documents or other conclusive certificates of proof. The registrar should exempt the parties from having to submit the documents relating to personal status if they would have to be obtained from his own office.

## **CERTIFICATE OF NO IMPEDIMENT**

Issuance by domestic authorities: Persons whose capacity for marriage is determined by the laws of a foreign state should not contract marriage until they have submitted a certificate issued by their national authorities confirming that under the law of their native country, there exists no impediment to their marriage (certificate of no impediment). If the national authorities of the country in question do not issue certificates of no impediment or if it is impossible or very difficult to obtain such a certificate, the competent president of the Higher Regional Court may grant an exemption from the requirement of a certificate of no impediment (details below). Stateless persons, homeless aliens, persons entitled to asylum and foreign refugees having their domicile or staying in Germany require neither a certificate of no impediment nor an exemption. The certificate of no impediment becomes invalid if the marriage is not contracted within six months of the date of issue of the certificate; if a shorter period of validity is specified in the certificate of no impediment, this period shall apply.

Issuance by other authorities: Certificates issued by foreign missions can be recognized as certificates of no impediment only if issued in accordance with the Convention of 5 September 1980 in the Issuance of Certificates of No Impediment. The other States parties to the Convention are at present Austria, Italy, Luxembourg, the Netherlands, Portugal, Spain, Switzerland and Turkey. If this condition is not met, however, such certificates may be used by the president of the Higher Regional Court as the basis for granting an exemption from the requirement of a certificate of no impediment. Special agreements on the procurement and issuance of certificates of no impediment are to be observed with Switzerland, Luxembourg and Austria.

Cases where a certificate of no impediment is not required: If one party is a national of a state whose authorities do not issue certificates of no impediment as referred to in above or if he or she is a stateless person with his/her ordinary residence abroad, that party requires an exemption from the requirement of a certificate of no impediment from the president of the Higher Regional Court in whose district the registrar before whom the marriage is to be contracted is based. The same applies to homeless aliens, persons entitled to asylum and foreign refugees with neither their domicile nor their ordinary residence in Germany. The party can be exempt from the requirement of a certificate of no impediment if, even though his or her native country issues such certificates, the procurement of such is impossible or would entail considerable difficulty. Stateless persons, homeless aliens, persons entitled to asylum and foreign refugees having their domicile or staying in Germany require no exemption. The application for such exemptions is included in a record drawn up by the registrar with whom the intended marriage was registered; such record together with the requisite documents is then submitted to the president of the competent Higher Regional Court. In reaching his or her decision, the president of the Higher Regional Court will, where applicable, examine if German law can be applied in cases where a requirement for marriage in accordance with the national law of the foreign party in question is not fulfilled. This presupposes that the foreign party has his or her ordinary residence in Germany or that the other party is German, that all reasonable efforts have been made to fulfill the requirements for marriage, and that refusal to allow the marriage would be incompatible with the freedom to contract marriage. The exemption becomes invalid if the marriage is not contracted within six months.

## **POINTS TO OBSERVE**

General remarks on the present information: The above information gives only a **general survey** of the requirements in connection with the contraction of marriage in Germany. Persons wishing to marry **should ask the competent registrar** before whom marriage is to be contracted which certificates and other documents are required.

Application of German law to non-Germans: German law is in many cases applicable to parties who are not German but who, as stateless persons, homeless aliens, persons entitled to asylum or foreign refugees, have their domicile or are staying in Germany. Enquiries should be made to the registrar by whom the marriage is to be solemnized.

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